(3)
SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH

WRIT PETITION NO. 793/2006

PETITIONER (S) : 1. State of Chhattisgarh
Through Secretary
Water Resources Department
D.K.S. Bhawan, Mantralaya,
Raipur, Chhattisgarh.

P.R. No. 2-2-06
Presented by Shri Gyanendra Tiwari
dated 1-2-2006

2. Executive Engineer,
Water Resources Department
Chhuee Khadan Division,
District - Rajnandgoan
Chhattisgarh
Through
Sub Divisional Officer
Water Resources Department
Sub Division Dongargarh,
District: Rajnandgoan, Chhattisgarh

VERSUS

RESPONDENT (S) :

1. Manthir S/o Milau
2. Dhanva S/o Derha
3. Bisalik S/o Ganesh
4. Ramji S/o Derha
5. Sitram S/o Tulsi
6. Dhursingh S/o Guhri
7. Gangaram S/o Milau
8. Ritu S/o Bisahu
9. Santram S/o Tulsi
10. Pyarelal S/o Bisram
11. Daduram S/o Samrath
12. Dayasingh S/o Bisahu
13. Lalsingh S/o Gopal
14. Mahabir S/o Thukel
15. Budharu S/o Dharam
16. Brijlal S/o Parasram
17. Govind S/o Bhukhau
18. Ganguram S/o Sukhram
19. Sonu S/o Nathan
20. Bhaduram S/o Guhari
21. Ramhit S/o Jhadu
22. Santuram S/o Suklal
23. Patiram S/o Milan
24. Dularram S/o Parasram
25. Ratan S/o Sonsai
26. Shishpal S/o Govind
27. Bohran S/o Chiman
28. Krishna Kumar S/o Kartik
29. Chaitu S/o Bailu

30. Hiradu S/o Pandit
31. Birju S/o Nathan
32. Jagat S/o Mahettar
33. Kaiharsingh S/o Kalyan
34. Tularam S/o Jhadu
35. Nanduram S/o Sakhu
36. Ajit S/o Shanker
37. Sadhva S/o Govind
38. Hemraj S/o Ramkumar
39. Ranjit S/o Rambilas
40. Laxmi S/o Govind
41. Narad S/o Itwari
42. Deepak S/o Bisal
43. Chovram S/o Anandi
44. Ratanlal S/o Sabul
45. Harichand S/o Kamlu
46. Balram S/o [illegible]ri
47. Ramsingh S/o Biraj
48. Ramswaroop S/o Jhadu
49. Shiv S/o Lodhan
50. Manbodh S/o Baldev
51. Baliram S/o Mangloo
52. Jahrit S/o Milap
53. Alakhram S/o Shersingh
54. Hemlal S/o Mansingh
55. Keshoram S/o Indrajeet
56. Guni S/o Firturam
57. Gangu S/o Indrajeet
58. Gumlal S/o Budharu
59. Pancharam S/o Jhagloo
60. Prahlad S/o Aliyar
61. Vijay S/o Guha
62. Samharu S/o Bhikham
63. Jitram S/o Gendu
64. Gautam S/o Dhansu
65. Prem S/o Agrahit
66. Chamru S/o Mansingh
67. Kalaram S/o Sunderlal
68. Rameshar S/o Namdas

Through Yashwant Sahu
Secretary Chhattisgarh Jal Sansadhan
Vibhag, Majdoor Sangh, Behind
Menaka Hotel, Bans Para,
Durg, Chhattisgarh.

69. Presiding Officer,
Industrial Court,
Raipur (C.G.)

70. Presiding Officer
Labour Court,
Rajnandgaon (CG)

(5)

APPLICATION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

W.P. No 793

मामला क्रमांक ..... सन् 2006

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10.04.2006

Shri Satish Gupta, Dy. Govt. Advocate for petitioners.

None for respondents.

Heard on admission and on M.W.P. No. 613/2006.

Respondents No. 1 to 68 preferred a case under Section 15 of the Payment of Wages Act, 1936 (henceforth, "the Act") before the Labour Court, Rajnandgaon. Learned labour Court considered the case on merit and also considered the earlier order passed by Industrial Court and thereafter vide order dated 21.8.2001 allowed the claim and directed the petitioners to deposit a sum of Rs. 6,70,561.60. Being aggrieved by that order petitioners filed an appeal before the Industrial Court, Raipur bearing appeal No. 13/PW Act/B-II/2001. Learned Industrial Court, vide order dated 18.11.2002, dismissed the appeal being not maintainable for want of deposit in accordance with Section 17(1-A) of the Act. Being aggrieved by both the orders, this petition under Article 227 of the Constitution of India has been filed by the petitioners *inter-alia* on the ground that respondents are not members of Chhattisgarh Jalsansadhan Vibhag Mazdoor Sangh and have not worked during the period from 17.9.1998 to 31.3.1999 in the Department. The award is contrary to law. The petitioners also have declared that they have availed all the alternative or efficacious remedy available and there is no other option except to approach the Hon'ble High Court.

Section 17 (1), Clause (1-A)and Clause 4 of the Payment of Wages Act, 1936 read as below:

"17. Appeal.- (1) (An appeal against an order dismissing either

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..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

wholly or in part an application made under, sub-section (2) of section 15, or against a direction made under sub-section (3) or sub-section (4) of that section) may be preferred, within thirty days of the date on which "the order or direction) was made before the Industrial Court.

(a) xxxxxx xxxxxx xxxxxx

(b) xxxxxx xxxxxx xxxxxx

(c) xxxxxx xxxxxx xxxxxxx

(1-A) No appeal under clause (a) of sub-section (1) shall lie unless the memorandum of appeal is accompanied by a certificate by the authority to the effect that the appellant has deposited the amount payable under the direction appealed against.

(2) xxxxxx xxxxxx xxxxxxx

(3) xxxxxx xxxxxx xxxxxxx

(4) The Court referred to in sub-section (1) may, if it thinks fit, submit any question of law for the decision of the High Court and, if it so does, shall decide the question in conformity with such decision".

Bare reading of the above provisions unveils that proper and efficacious remedy was available to the appellants by continuing the appeal after due deposit of the amount payable under the direction appealed against and thereafter if any question of law involves either the Industrial Court suo-moto or on the request of the parties, if it thinks fit

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

should have submitted that question for consideration to the High Court. But petitioners willfully for a continuous period of one year before passing of the order dated 18.11.2002 availed the time to deposit the amount, but failed to do it. Clearly, it is a case of willful disregard of the relevant provision, therefore, the Industrial Court was compelled to pass order dated 18.11.2002 dismissing the appeal being not maintainable. Instead of petitioners taking steps to revive the appeal or to take steps under Section 17 (4) of the Act directly entered the jurisdiction of High Court under Article 227 of the Constitution of India. The appeal provided under the Act has not been disposed of on merit and the validity of the order passed by Labour Court was to be examined by the Appellate Court in accordance with law. The order passed by the Industrial Court on 18.11.2002 does not appear to be erroneous. I am of the opinion that no order invoking jurisdiction under Article 227 of the Constitution of India is required to be passed by this Court at this juncture. However, petitioners may take appropriate steps to revive the appeal or to file afresh in accordance with law. If any question of law for decision of the High Court is involved, petitioner may take necessary recourse under Section 17(4) of the Act.

With the aforesaid observations, the writ petition No. 793/2006 and M.W.P. No. 613/2006 stand disposed of.

Sd/-
V.K.Shrivastava
Judge

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